
245.05

Sharing Data from WIC Participant Records

Overview

Introduction All information about WIC participants is confidential and may only be released in accordance with state and federal law. This includes acknowledgment of whether or not an individual is enrolled on the WIC Program. In most circumstances, such as a referral to another health provider, the participant or parent/guardian must authorize the release of information. This policy provides guidelines for releasing information to Title V (Maternal and Child Health) agencies, Head Start programs, the Bureau of Child Protective Services, subpoenas, and search warrants.

If participant complains Consult with legal counsel if a program applicant or participant files a formal complaint or begins litigation because the state or local agency released WIC information in response to a subpoena or search warrant.

No punitive action from FNS If your agency is required to release confidential information in response to a subpoena or search warrant and the release is made in accordance with WIC regulations, instructions and policy, Food and Nutrition Services will not take adverse action against your agency.

Policy reference 7 CFR Part 246: Miscellaneous Final Rule (September 27, 2006)

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Disclosure of Limited WIC Participant Data

Introduction

This section of policy describes the limited WIC participant data that can be disclosed to non-WIC programs in the Iowa Department of Public Health.

Access to electronic WIC records

Only WIC personnel (defined as funded by WIC grant funds) are allowed access to the electronic WIC data system, including the rights to “read” and edit records. Allowing a non-WIC employee to “read” electronic records constitutes a breach of confidentiality and a breach of the token security agreement by the WIC personnel who allowed it to happen. If agencies would like a non-WIC funded employee to have access to the **WIC data system**, this may be allowed at the discretion of the state office through a justification process. The justification requirements can be found on the **WIC data system** Token User Information Form.

Shared information

The information that can be disclosed includes the following:

- Participant name
 - Address
 - Phone number
 - Date of birth
 - WIC participant category (i.e., infant, child, pregnant, breastfeeding, not breastfeeding)
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Programs that may receive data

The director of the Iowa Department of Public Health authorized the use and disclosure of limited WIC participant data to the following programs in the department:

- Maternal and Child Health Title V Program
 - Early Hearing Detection & Intervention (EHDI)
 - Prenatal Risk Assessment Monitoring System (PRAMS)
 - Immunization Program
 - Lead Poisoning Prevention Program
 - Oral Health Center
 - Center for Congenital and Inherited Diseases
 - Local Public Health Services Agencies
 - Family Planning Program
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Disclosure of Limited WIC Participant Data, Continued

Use of data

These programs may use this confidential information only for:

- Establishing the eligibility of WIC applicants or participants for the programs the organization administers;
- Conducting outreach to WIC applicants and participants for such programs; and
- Enhancing the health, education or well-being of WIC applicants or participants who are currently enrolled in such programs, including the reporting of known or suspected child abuse or neglect that is not otherwise required by state law;
- Streamlining administrative procedures in order to minimize burdens on staff, applicants, or participants in either the receiving program or the WIC Program; and/or
- Assessing and evaluating the responsiveness of a state's health system to participants' health care needs and health care outcomes.

**Written
agreement**

There is a written agreement on file at the Iowa Department of Public Health listing the above programs.

Title V (MCH) Programs

Policy

Title V (MCH) programs have access to limited participant data for the purposes of coordinating care, reducing duplication of services, and outreach.

**Participant
contact data**

The WIC agency may share the limited participant data described on page 2 of this policy in the following ways:

- Verbally or in writing upon verbal request from the MCH agency.
 - A report or an electronic file generated by the WIC state agency upon written request from the state MCH program or any of their contractors. This request must describe the intended use of the data.
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**Additional
nutrition and
health data**

Additional data may be shared as described below:

- Nutrition Health History cards listing blood work results and anthropometric data are provided to WIC participants and can be shared by that participant with other providers.
 - WIC data system outputs (e.g., pediatric growth charts, prenatal weight gain charts, **nutrition interviews**, and nutrition care plans) may also be shared as outlined below.
 - When the WIC contractor also holds the department contract for Title V, WIC personnel can provide the relevant output upon verbal request of the Title V agency personnel.
 - When different community organizations hold the department contracts for WIC and Title V, WIC personnel can provide the relevant output upon written request from the Title V agency. This request must include a signed participant release.
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Head Start and Early Head Start Programs

Policy

Head Start and Early Head Start Programs have access to limited participant data for the purposes of coordinating care, reducing duplication of services, and outreach.

**Participant
contact data**

The WIC agency may share the limited participant data described on page 2 of this policy in the following ways:

- Verbally or in writing upon verbal request from the Head Start agency.
 - A report or an electronic file generated by the WIC state agency upon written request from the Head Start program. This request must describe the intended use of the data.
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**Additional
nutrition
interview data**

Additional data may be shared as described below:

- Nutrition Health History cards listing blood work results and anthropometric data are provided to WIC participants and can be shared by that participant with Head Start personnel.
 - WIC data system outputs (e.g., pediatric growth charts, prenatal weight gain charts, **nutrition interviews**, and nutrition care plans) may be shared upon written request from the Head Start program including Head Start programs in the same agency as the local WIC program. This request must include a signed participant release.
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Investigations by the Bureau of Child Protective Services

Request for copies of materials in a WIC record

If the Bureau of Child Protective Services requests copies of materials in a WIC record, ask for a written request and **scan it into the participant's file**. This documentation will protect your agency from liability for releasing the information. It is not necessary to inform the participant.

Documents that can be printed from the data system

Clarify the specific information being requested before printing documents from the WIC data system (e.g., growth charts, **nutrition interviews**, nutrition care plans).

Some requested information may not be in these printed documents (e.g., follow-up on referrals, check redemption data). In those cases, it may be necessary to generate a nutrition care plan containing the information that was requested. It is also acceptable to provide the requested information in a letter with other supporting documents as appropriate.

Confirmation of participation

If the Bureau of Child Protective Services simply requests confirmation of WIC participation, no documentation is required.

Subpoenas

Subpoena: definition	A subpoena is a request for information issued by a court in response to a request by an attorney representing a party. A subpoena may be directed to an individual or an entity, and a subpoena <i>duces tecum</i> is a request for the production of designated tangible items (e.g., records).
Contents of a subpoena	The subpoena will designate a deadline by which the state or local WIC agency must respond to the subpoena. The subpoena will also identify the individual or organization seeking the WIC information and who had the subpoena issued.
Responses to a subpoena	<p>A subpoena is a request for information, not a court order to produce it. There are two responses to a subpoena:</p> <ul style="list-style-type: none"> • Produce the requested information, or • File a motion to <i>quash</i> the subpoena (make it void). <p>A subpoena cannot be ignored. Failure to respond to a subpoena could result in the state or local agency being found in contempt of court, and WIC employees could be fined or incarcerated.</p>
Applicable regulation	Federal law restricts the use or disclosure of program information. Refer to 7 CFR §246.26(d) of the WIC Program regulations (see Policy 398.10).
Response	If your agency is served with a subpoena, follow this procedure.

Stage	Description
1	Immediately notify the state WIC office.
2	Consult with legal counsel to determine whether the information requested is in fact confidential.
3	If the information is confidential, attempt to quash the subpoena unless the local or state agency determines that disclosing the information is in the best interest of the program.
4	Regardless of the decision reached in Stage 3, inform the court or the receiving party that the information is confidential and seek to limit the disclosure by: <ul style="list-style-type: none"> • Providing only the specific information requested, and • Limiting to the greatest extent possible the public access to the information disclosed.

Note: The state agency follows the same procedure if served with a subpoena.

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Subpoenas, Continued

Limit the extent of information released	<p>If no appeal is brought, or if the appeal is denied, limit the extent to which WIC participant information is made public:</p> <ul style="list-style-type: none">• Request that the parties agree in writing to the terms of the release of the subpoenaed information.• Produce the minimum information required by the subpoena (e.g., provide edited documents reflecting only the requested WIC information).• Attempt to limit the extent to which the WIC information actually produced becomes public information (e.g., have the information reviewed in the judge's chambers, or request limited entry into the public record).
Warrant of attachment	<p>If the court denies the motion to quash, legal counsel should seek a warrant of attachment or similar court order. A warrant of attachment is a written court order requiring a law enforcement officer to seize specific documents and deliver them to the court, which essentially forces the subpoenaed agency to comply. In this way, there is a record that WIC employees disregarded federal law protecting the confidentiality of WIC records only when compelled to do so by a court.</p>
Record retention	<p>Copies of subpoenas are considered records pertaining to WIC operations and must be retained on file by local agencies as described in Policy 300.30.</p>

Search Warrants

Compliance is required

State and local agencies must comply with search warrants. A search warrant differs from a subpoena, in which a time frame is established to either comply with the subpoena or attempt to quash the request. Failure to fully comply with a search warrant at the time it is served could result in the immediate incarceration of state or local WIC agency staff.

Response

If your agency is served with a search warrant, follow this procedure.

Stage	Description
1	Immediately notify the state WIC office.
2	Immediately notify legal counsel.
3	Comply with the search warrant.
4	<p>Inform the individual(s) serving the search warrant that the information being sought is confidential and seek to limit the disclosure by:</p> <ul style="list-style-type: none"> • Providing only the specific information requested, and • Limiting to the greatest extent possible the public access to the information disclosed.

Note: The state agency follows the same procedure if served with a search warra

Limit the type of information produced

Search warrants usually specify exactly what information is being sought. Agency staff should carefully review the search warrant and provide only the specific information requested in the search warrant and no other information. Explain the confidential nature of WIC information to the person producing the search warrant.

Record retention

Copies of search warrants are considered records pertaining to WIC operations and must be retained on file by local agencies as described in Policy 300.30.

eWIC Customer Service Line

Policy

The eWIC customer service line must keep WIC participant information confidential.

Non cardholders

If an individual calls the eWIC customer service line who is not the cardholder (additional parent/guardian or proxy) and has all the required information (date of birth, zip code, and name of card holder), the eWIC customer service line cannot give out any information since they would not be able to verify if the individual is actually authorized to use the card.

The eWIC customer service staff will direct the individual to contact the local agency. The local agency staff will be able to confirm if the individual is an additional parent/guardian or proxy.

If the individual is authorized to use the eWIC card and is needing information that can only be obtained through the eWIC database, contact the State office for assistance.
